IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.11.2006

CORAM

THE HON'BLE MR.JUSTICE P.JYOTHIMANI

WRIT PETITION No.44998 of 2006 and

M.P.Nos.1 and 2 of 2006

P.Anthony Raja .... Petitioner

vs

1. Dean
   Kilpauk Medical College Hospital,
   Chennai 600 010.

2. The Director of Medical Education,
   Chennai 600 010.

3. Mr.Venkatachalam .... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of certiorarified Mandamus to call for the records of the 1st respondent in Ref.No.3525/E1(3)/05 dated 30.09.2005 and quash the order passed therein and direct the respondent to appoint the petitioner as Sergeant in Kilpuak Medical Hospital, Chennai and issue interim direction directing the first respondent not to regularise the services of the third respondent in the post of Sergeant to which he was temporarily appointed on the basis of certain conditions, by transfer of service.

For petitioner : Mr.M.Vivekanandan
For respondents : Mr.Gopiraja, GA

ORDER

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This writ petition is filed against the order of the first respondent dated 30.09.2005, in and by which, the first respondent has posted the third respondent as a Sergeant in Kilpauk Medical College Hospital by transfer of service.

2. The case of the petitioner who is working as a Record Clerk in the same Kilpauk Medical College Hospital is that he should have been appointed at the time of appointment of the third respondent. However, his claim was not considered on the basis of age limit. The case of the petitioner is that there is no age constraint for the purpose of appointment by transfer and in that regard he has also made representation to the respondents. It is the case of the petitioner that based on his representation, certain clarification has been called for from the Government by the Director of Medical Education and till the clarification is

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received, the third respondent, who has been appointed, should not be regularised in service.

3. On the other hand, a reference to the impugned order dated 30.09.2005 shows that it is an appointment of the third respondent by transfer as a Sergeant in the Kilpauk Medical College Hospital. It is true that the said appointment order says that the third respondent's appointment is temporary and it is subject to clarification, which is sought for from the Government by the Director of Medical Education in his letter dated 21.09.2005. Even though it is the case of the petitioner that the said clarification sought for by the Director of Medical Education dated 21.09.2005 is based on the representation of the petitioner, as long as there is no clarification issued as on date, I do not think that there is any reason for the petitioner to challenge the impugned order of appointment of the third respondent dated 30.09.2005 after more than one year. It is always open to the petitioner to work out his remedy after the clarification is received from the Government as it is seen in the appointment order issued to the third respondent.

4. In view of the same, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

rg

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Dean
   Kilpauk Medical College Hospital,
   Chennai 600 010.

2. The Director of Medical Education,
   Chennai 600 010.

+ one cc to the Government Pleader sr no. 57231
+ one cc to Mr. M. Vivekanandan, Advocate sr no. 56658

GM(Co)
NM(29.11.2006)

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